
UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Matthew Mungai

Plaintiff(s),

vs.

Case No. 23-cv-1237 KMM/JFD
(To be assigned by Clerk of District Court)

University of Minnesota

DEMAND FOR JURY TRIAL

YES ☒ NO ☐

Defendant(s).

(Enter the full name(s) of ALL defendants in
this lawsuit. Please attach additional sheets
if necessary).

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CLERK, U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

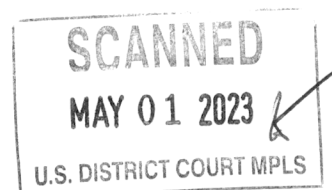
COMPLAINT

PARTIES

1. List your name, address and telephone number. Do the same for any additional plaintiffs.

a. Plaintiff

Name	Matthew Mungai
Street Address	3744 Cleveland Ave N APT 208
County, City	Ramsey, Saint Paul
State & Zip Code	MN 55112
Telephone Number	(763) 910-6341



2. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption.

a. Defendant No. 1

Name	University of Minnesota
Street Address	360 McNamara Alumni Center, 200 Oak ST SE
County, City	Hennepin, Minneapolis
State & Zip Code	MN 55455

b. Defendant No. 2

Name

Street Address

County, City

State & Zip Code

c. Defendant No. 3

Name

Street Address

County, City

State & Zip Code

NOTE: IF THERE ARE ADDITIONAL PLAINTIFFS OR DEFENDANTS, PLEASE PROVIDE THEIR NAMES AND ADDRESSES ON A SEPARATE SHEET OF PAPER.

Check here if additional sheets of paper are attached: ☒

Please label the attached sheets of paper to correspond to the appropriate numbered paragraph above (e.g. Additional Defendants 2.d., 2.e., etc.)

JURISDICTION

Federal courts are courts of limited jurisdiction. Generally, two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount of damages is more than \$75,000 is a diversity of citizenship case.

3. What is the basis for federal court jurisdiction? (*check all that apply*)

☒ Federal Question ☐ Diversity of Citizenship

4. If the basis for jurisdiction is Federal Question, which Federal Constitutional, statutory or treaty right is at issue? List all that apply.

Title VI Civil Rights Act 42 U.S.C. § 2000d et seq, Equal Protection Clause of the 14th Amendment 42 U.S.C. § 1981 Minnesota Human Rights Act, § 363A.03 et seq

5. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party? Each Plaintiff must be diverse from each Defendant for diversity jurisdiction.

Plaintiff Name: **Matthew Mungai** State of Citizenship: **Minnesota**

Defendant No. 1: **University of Minnesota** State of Citizenship: **Minnesota**

Defendant No. 2: State of Citizenship:

Attach additional sheets of paper as necessary and label this information as paragraph 5.

Check here if additional sheets of paper are attached. ☐

6. What is the basis for venue in the District of Minnesota? (*check all that apply*)

☒ Defendant(s) reside in Minnesota ☒ Facts alleged below primarily occurred in Minnesota

☐ Other: explain

STATEMENT OF THE CLAIM

Describe in the space provided below the basic facts of your claim. The description of facts should include a specific explanation of how, where, and when each of the defendants named in the caption violated the law, and how you were harmed. Each paragraph must be numbered

separately, beginning with number 7. Please write each single set of circumstances in a separately numbered paragraph.

7.

Matthew Mungai is an adult Black male of Kenyan origin who attended and worked at the University of Minnesota(hereinafter referred to as UMN) from 2019 until his graduation in 2022. He brings this action to hold the Defendant University accountable for its deliberate indifference to the the ongoing and devastating physical, psychological, mental, and emotional damages that the Defendant has inflicted upon his reputation, career, and life by egregiously racially and national origin-based discrimination, harassment, bullying and defaming him and unlawfully colluding to bar him from his education.

Attach additional sheets of paper as necessary.

Check here if additional sheets of paper are attached: ☒

Please label the attached sheets of paper to as Additional Facts and continue to number the paragraphs consecutively.

REQUEST FOR RELIEF

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking.

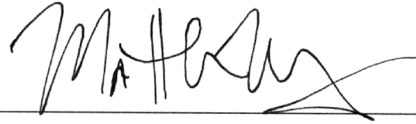
-\$15,000,000 in monetary compensation

-Paul Kovacovic fired from his role at the University of Minnesota

-The University of Minnesota shall provide, in advance of the first day of each school year, provide a mandatory equity, implicit bias, and inclusive practices training to all School District personnel

Signed this 23rd day of April, 2023

Signature of Plaintiff

A handwritten signature in black ink, appearing to be 'M. Hansen', written over a horizontal line.

Mailing Address

**3744 Cleveland Ave N APT 208
Saint Paul, MN 55112**

Telephone Number

(763) 910-6341

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide his/her mailing address and telephone number. Attach additional sheets of paper as necessary.

Additional Facts

7

Matthew Mungai is an adult Black male of Kenyan origin who attended and worked at the University of Minnesota(hereinafter referred to as UMN) from 2019 through his graduation in 2022 and now currently. All events occurred while he was a student. He brings this action to hold the Defendant University of Minnesota accountable for its deliberate indifference to the the ongoing and devastating physical, psychological, mental, and emotional damages that the Defendant has inflicted upon his reputation, career, and life by egregiously racially and national origin-based discriminating, harassing, bullying and defaming him and unlawfully colluding to bar him from his education.

8

The Defendants' deliberate indifference to the harm Plaintiff experienced as a result of these incidents was not only immoral, but as the Tenth Circuit made plain, it was illegal:

It does not take an educational psychologist to conclude that being referred to by one's peers by the most noxious racial epithet in the contemporary American lexicon, being shamed and humiliated on the basis of one's race, and having school authorities ignore or reject one's complaints would adversely affect a Black child's ability to obtain the same benefit from schooling as her white counterparts.

Bryant v. Indep. Sch. Dist. No. 1-38 of Garvin Cnty, Okla., 334 F.3d 928, 932 (10th Cir. 2003).

9

The Defendant, University of Minnesota, is a public University in the Minneapolis area. The student population is 3% black

10

Student shall mean any person taking courses at the University or enrolled in a University academic program; any person who has taken courses or enrolled in a University academic program within the past three terms (including summer) and who has not withdrawn, transferred, or graduated; any individual who has registered for classes or has been approved for readmission to the University; any person participating as a student in University activities, even if prior to the start of classes; any person previously enrolled within the last three terms (including summer) and who has a continuing relationship with the University through active participation in student groups or University-sponsored activities; any person on an official leave of absence with an intent to return; any person who withdraws, transfers, or graduates after an alleged violation of the Student Conduct Code and before the allegation is resolved; and any already graduated person when the conduct at issue implicates the validity of the person's earned University degree. UMN Conduct Code

11

Academic environment shall mean any setting where a student is engaged in work toward academic credit, satisfaction of program-based requirements, or related activities, including but not limited to classrooms, laboratories, online courses, learning support and testing platforms, learning abroad, and field work. UMN Student Conduct Code

12

Campus shall mean all University premises, including all land, buildings, facilities, and other property owned, possessed, leased, used, or controlled by the University, and adjacent streets and sidewalks. UMN Student Conduct Code

13

University-sponsored activities shall mean any program or event sponsored by the University, including but not limited to academic, athletic, extracurricular, study abroad, research, online, or internship programs or activities. Activities hosted by student groups that are not sponsored by a University department, unit, or program shall not be considered University-sponsored activities. UMN Student Conduct Code

14

Student group shall mean any group of students that is or has been registered as a University Student Group under applicable University Policies Or Procedures

15

April 2020 A White University of Minnesota dining staff member sent unwanted lewd texts to Mr. Mungai that stated that he is “horny” and references Mr. Mungai’s “[black] race.” The incident was reported to University Staff. No action was taken against the employee

16

March 2021 White University of Minnesota students pull up to Mungai’s car and proceed to make a gun with their finger and shoot at him while making several “Pew pew pew” sounds. The incident was reported to University Staff.

17

April 2021 White University of Minnesota student calls Mungai “dirty”, “ugly”, “nig” in his business class. “Nig” is an abbreviation for the word “Nigger” and/or “Nigga”. The incident was reported to class staff but no action was taken

18

April 2021 White University of Minnesota students were talking about “racial events” in a group based computer science class almost daily despite Mr. Mungai’s attempts at diswadding those conversations. This made Mr. Mungai uncomfortable and fearful, Mr. Mungai was the only black student in the 50+ person computer science class. The incident was reported to University Staff but no action was taken for the duration of the class

19

April 2021 Mr. Mungai was diagnosed with a “mental illness” by a licenced psychologist as a direct result of the racial and national origin based harassment and discrimination he endured at the University of Minnesota

20

May 2021 A UMN student in the official school club Manga Anime Society posted a meme of a black person with their lips centered. The caption read “when a bee stings you and your face swells”.

Swollen Lips is a common racial trope against black people. This incident was reported to University Staff

21

June 2021, Katrina Yezzi-Woodley, A White Anthropology Professor at the University of Minnesota, threatened Mungai with cheating after she claimed one of his answers to a discussion matched too closely with what was posted on an online article. This is extremely unusual at the University and never occurred prior in Mungai's academic career at the University. Mr. Mungai confronted her about the matter and she indicated that she "knows [of Mr.Mungai]" Mr. Mungai thereafter reported this incident to the Student Conflict Resolution Center(SCRC) which was represented by Paul Kovacovic.

22

July 2021, Mr. Mungai was not able to complete his ANTH 1001 because of intensifying racial and national taunts during the last week of class which included immediate insults such as "dirty", "blackie", "*vocalizations*", "monkey" when he exited his on-campus residence. This caused Mr. Mungai a paralyzing level of fear. These incidents were reported to University Staff

23

August 2021 Ms. Yezzi-Woodley and the Anthropology department denied a request for an extension due to these incidents in #22 which is a violation of the Department's Code of Conduct.

24

August 2021, A White University of Minnesota student said "Nigga u gon' die" to Mr. Mungai on campus. This incident made Mr. Mungai fearful and he avoided campus thereafter which included him moving back to his parents house in suburban Minneapolis as a direct result. This incident was reported to University Staff

25

September 2021, A White University of Minnesota student kicked the Plaintiff in the back multiple times after stating: "Oh my god not this guy", "dirty nigger". A police report was filed and the incident was reported to University staff.

26

October 2021, 7 White University of Minnesota students who were headed for a school sponsored learning abroad trip told Mungai he has “AIDS”, “dirty”, “dirty nigger”, “ugly” at O'Hare International Airport. This incident was reported to UMN Staff. Learning abroad is considered an academic environment according to the Student Conduct Code

27

“AIDS” has a high prevalence in Sub-Saharan Africa where Mungai is from. The black student population of the University of Minnesota is largely of African Sub-Saharan descent. This incident was reported to UMN staff but no action was taken

28

December 2021, Paul Kovacovic, White University of Minnesota Student Conflict Resolution Center Staff Member, the Mr.Mungai gave Kovacovic his phone number because Kovacovic failed to set up a zoom meeting. Kovacovic proceeded to spam Mungai's phone number with ads such as 3 “Best Buy” ads. The “Best Buy” ads specifically happened after Kovacovic sent an email feignedly asking “are you ok?” in reference to an instagram post Mungai posted on his private instagram page which got reposted onto a school forum. After Mungai emailed Kovacovic telling him to focus on finding a new class to fulfill my “BIO/ANTH” requirement Kovacovic spammed Mungai's phone with an ad again. This made Mungai experience a lot of stress not knowing when Kovacovic would spam his phone again. Mungai had to change his phone number. Kovacovic later told Mr. Mungai to “switch schools” when the plaintiff asked about completing an in-person class online and Kosocovic failed to look into the degree requirement matter. This altercation was reported to the Equal Opportunity and Affirmative Action department but no action was taken

29

September 2021 - May 2022, Death Threats and Daily On-Campus Racial Slurs, Taunts and Gestures including “dirty nigger”, “Students and Staff shooting at Mungai with fingers” prevented Mungai from completing his final class at the University until Summer 2022 when an online class was available rather than Fall 2021 as expected. The University of Minnesota did not provide an

online alternative and this class could not be completed at a different University because it fulfilled a University of Minnesota specific requirement. This was reported to the SCRC

30

July 2022 Mr. Mungai's offer of employment was rescinded as a direct result of not being able to complete his last University of Minnesota course on time due to name calling, threats, assaults and intimidation on UMN campus. The employment offer was at Taylor Corporation in the Software Development for \$80,000

31

March 2022 - September 2022, As a direct result of the constant racial and national origin harassment and bullying experienced by Mr. Mungai on a daily basis in the University of Minnesota, Mr. Mungai has caused immense stress, anxiety, and fear of attending school as he was afraid of what his peers might do to him. Mr. Mungai has become socially isolated, and did not participate in extracurricular activities for fear of being bullied by his peers. His grades suffered. He has suffered physical injury as well as permanent psychological and emotional harm. These incidents were reported to University of Minnesota Staff

32

June 2022, Mr. Mungai was told that "you probably have AIDS" by a campus student and employee. This was reported to University of Minnesota Staff. No action was taken, a violation of the University of Minnesota Student Code of Conduct

33

July 2022, Mr. Mungai was called "dirty" during his biology class. This was reported. No action was taken, a violation of the University of Minnesota Student Code of Conduct

34

July 2022, A White University of Minnesota staff member makes a gun symbol with their fingers and proceeds to shoot at Mr. Mungai. This is in reference to the high profile police shootings against black men with the aggressor being a White person that took place prior in the area. This was reported to University Staff.

35

July 2022, An Asian student had an edited picture of a Black person with tears and dirt as their profile picture on Canvas - the Learning Management System for the University of Minnesota - during the online biology class he shared with Mungai. This person's profile picture was reported by Mr. Mungai but it was not censored nor taken down during the duration of the class.

36

July 2022, Paul Kimani, A University of Minnesota employee sent a message directed to Mr. Mungai that stated "Explore Kenya (middle finger emoji)." Mungai is of Kenyan national origin which known to Paul Kimani due to a prior interaction with Mr. Mungai'. This display caused Mr. Mungai anxiety and fear. The incident was reported to University of Minnesota staff.

37

October 2022, Incidents were reported to the Minnesota Department of Human Rights(MDHR)

38

December 2022, Caricature shown to Mr. Mungai by University of Minnesota Student and Staff member depicting a white person shooting at a black person. This incident was reported to University of Minnesota staff.

39

January 2023, University of Minnesota staff member called Mr. Mungai "disorganized", "lazy" which are common racial tropes and posted his picture online which had the effect of embarrassing Mr. Mungai in the University of Minnesota community. This incident was reported to University of Minnesota staff

40

February 2023, A White University of Minnesota Staff member told Mungai a story about a colleague of his who was out of place in University of Minnesota hockey games and proceeded to say: "Dark people are so out of place at hockey games. They don't belong here". This incident was reported to University of Minnesota Staff but no action was taken in regards to their employment.

41

March 2023, 3 White University of Minnesota Students and Staff members called Mr. Mungai on campus "crazy nigger". This incident was reported to UMN Staff.

42

March 2023, A caricature of a white person shooting at a black person was shown to Mr. Mungai by a University of Minnesota student and staff member on campus. This incident was reported to UMN Staff.

43

As a direct result of the constant harassment and bullying experienced by Mr. Mungai on a daily basis in the University of Minnesota, Mr. Mungai became severely distracted during school hours and could not focus on his classes. He did not participate in extracurricular activities because he was constantly afraid as he was always being made fun of and threatened for being black and of African national origin. The intimidation, name calling, threats, and verbal and physical assaults, have caused him to be socially isolated and in fear of his peers at school, and his grades dropped dramatically, when they used to be solid.

44

These horrendous racially and national origin based harassment and bullying shown by other students and staff on a daily basis towards Mr. Mungai in the University of Minnesota were never addressed by the faculty and staff of the school and continue to occur to this day. They have caused physical injury as well as permanent psychological and emotional harm to Mr. Mungai

45

August 2022, A Demand Letter was sent to the University of Minnesota General Counsel which was received in September 2022. Timothy Pramas declined the settlement demand.

46

Accordingly, Mungai asserts the following claims against the Defendant: Violations of Plaintiffs' rights secured under the Fourteenth Amendment of the United States Constitution, 42 U.S.C. § 1983, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d ("Title VI"), and the Minnesota Human Rights Act, § 363A.03 et seq. ("MHRA")

47

The Court has supplemental jurisdiction over Mungai's state law claims pursuant to Minnesota Human Rights Act, § 363A.03 et seq. ("MHRA")

COUNT I

Hostile Environment

against

All Defendants

Violation of Title VI, 42 U.S.C. § 2000d

48

Plaintiff restates the allegations contained in the preceding paragraphs as though fully incorporated herein.

49

Title VI and its implementing regulations prohibit discrimination in a federally-funded school based on a student's race or national origin.

50

Mr. Mungai was subjected to harassment and discrimination on the basis of race and national origin

51

The harassment and discrimination were sufficiently severe and pervasive to alter the conditions of their education and create a hostile environment

52

Defendant University of Minnesota, through the Student Conflict Resolution Center(SCRC), Equal Opportunity and Affirmative Action(EEOA), faculty, and staff members had actual notice of the racial and national origin hostility, harassment and discrimination. They failed to take remedial measures to prevent further discrimination of Mr. Mungai allowing the behavior to continue and become permissible and acceptable throughout the University

53

University of Minnesota receives federal funding for its educational programs

54

As a result of Defendants' conduct, customs, policies, and practices, Plaintiff no longer participated in after school activities. Plaintiff quit the Manga Anime Society and Entrepreneurship Club. Mr. Mungai was unjustly and discriminatorily deprived of equal educational opportunities and benefits

55

As a result of Defendant, University of Minnesota's violation of Plaintiff Mungai's rights under Title VI of the Civil Rights Act of 1964, Plaintiff Mungai has suffered physical, emotional and psychological damages in an amount to be determined at trial, but not less than fifteen million (\$15,000,000) dollars including compensatory, consequential, and punitive damages

COUNT II

Race Discrimination

Against All Defendants

42 U.S.C. § 1983

56

Plaintiff restates the allegations contained in the preceding paragraphs as though fully incorporated herein

57

Plaintiff had a constitutional and statutory right to have equal access to public education, without regard for his race.

58

Defendants acted with intent as expressed by their deliberate indifference, to violations of those constitutional and statutory rights.

59

The school district has a duty under state law to ensure that students' behavior does not create a racially hostile environment.

60

Defendants' conduct caused Mr. Mungai to suffer physical, emotional and psychological harm and been damaged in an amount to be determined at trial, but in no event less than fifteen million dollars(\$15,000,000)

COUNT III

Against All Defendants

Violation of the Minnesota Human Rights Act, § 363A.13 et seq.

61

Plaintiff restates the allegations contained in the previous paragraphs as if fully incorporated herein

62

Defendants had a duty to provide Plaintiff with an educational atmosphere free of racial discrimination

63

Defendants failed to take adequate steps to provide Mr. Mungai with an educational atmosphere free of racial discrimination

64

Defendants' conduct caused Mr. Mungai to suffer injuries, damages, and harm in an amount to be determined at trial, but in no event less than fifteen million dollars(\$15,000,000)

COUNT IV

Substantive Due Process

Against All Defendants

65

Plaintiff restates the allegations contained in the preceding paragraphs as though fully incorporated herein

66

Defendant University of Minnesota violated Mr. Mungai's substantive due process rights to equal protection under the 14th Amendment of the United States Constitution. University of Minnesota allowed discriminatory practices and anti-Black and anti-National Origin behaviors and actions to become institutionalized and condoned which penalized Mr. Mungai for being Black and Kenyan without any type of intervention or remediation

67

The Defendant's failure to take action to prevent the discrimination and harassment created or increased the danger to which the Plaintiff was exposed by their utter disregard and deliberate indifference towards the discipline of students for their conduct. The school district's inaction to prevent further harassment and bullying of Black and/or Kenyan students gives rise to a policy that tolerate and condones discriminatory behavior and student on student harassment in violation of their own rules and procedures

68

The discriminating, harassing, and bullying behavior of the University of Minnesota students, and the deliberate indifference to the behavior by the Defendant, rose to the level of egregious conduct so brutal and offensive to human dignity as to shock the conscience

69

That by reason of the aforesaid occurrence, and Defendant's negligence and other conduct as alleged herein Plaintiff has been caused to suffer physical, emotional and psychological injury

70

As a result of Defendant, University of Minnesota's substantive due process rights under the Equal Protection Clause of the Fourteenth Amendment, Plaintiff has suffered physical, emotional, and psychological injuries and has been damaged in an amount to be determined at trial, but in no event less than fifteen million dollars(\$15,000,000)

COUNT V

Against All Defendants

Aiding and Abetting

Violation of the Minnesota Human Rights Act, § 363A.01 et seq.

71

Plaintiff restates the allegations contained in the previous paragraphs as if fully incorporated herein

72

Defendants knew or should have known that other persons' conduct violated Mr. Mungai's rights under the MHRA and gave constructive substantial assistance or encouragement to those persons' conduct

73

Defendants' failure to end the discriminatory practices school-wide caused Mr. Mungai to suffer injuries, damages, and harm in an amount to be determined at trial, but in no event less than fifteen million dollars(\$15,000,000)

COUNT VI

Against All Defendants

Negligence

74

Plaintiff restates the allegations contained in the previous paragraphs as if fully incorporated herein

75

Defendants breached their duty to provide Mr. Mungai with an educational atmosphere free from racial discrimination

76

Defendants' breach caused Mr. Mungai to suffer injuries, damages, and harm

77

The injuries, damages, and harm Mr. Mungai suffered were foreseeable to Defendants

78

As a result of University of Minnesota's failure to exercise a reasonable degree of care over Mr. Mungai in their failure to adequately supervise UMN students, train their employees, enforce their own policies, and protect Mr. Mungai, Defendant University of Minnesota acted in a negligent manner, foreseeably causing injury to Mr. Mungai which includes physical, emotional and psychological injury resulting in damages in an amount of fifteen million (\$15,000,000) dollars